

July 13, 2016

The Honorable John Kerry
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

Dear Secretary Kerry,

We write to express sincere concerns with various aspects of the implementation and verification scheme of the Joint Comprehensive Plan of Action (JCPOA) in practice, as well as recent reports of potential violations of Iran regarding illicit procurement measures. As we approach the one-year anniversary of the signing of the JCPOA later this week, we are reminded of the need to remain vigilant in the daily enforcement of the deal. As President Obama said last year, “we will, for the first time, be in a position to verify all of [Iran’s] commitments. That means this deal is not built on trust; it is built on verification.”¹

As you know, last week Germany’s *Annual Report on the Protection of the Constitution* stated, “[T]he illegal proliferation-sensitive procurement activities in Germany registered by the Federal Office for the Protection of the Constitution persisted in 2015 at what is, even by international standards, a quantitatively high level. This holds true in particular with regard to items which can be used in the field of nuclear technology.”² The report continued, “Against this backdrop it is safe to expect that Iran will continue its intensive procurement activities in Germany using clandestine methods to achieve its objectives.”³

Separately, the annual report from the domestic intelligence agency in the German state of North Rhine-Westphalia said it detected 141 procurement efforts in 2015 that were likely related to the proliferation weapons of mass destruction. Roughly two-thirds of these procurement efforts were “attributed to Iranian programs,” an increase of roughly 50 percent from the year before.⁴ And, the state of Rhineland-Palatinate reported that Iran targeted German companies pursuing equipment for “atomic, biological, and chemical weapons” and goods which are relevant to “nuclear and missile delivery programs.”⁵

We were troubled to see how quickly both the White House and German officials rejected these suggestions that Iran might have violated the JCPOA or its implementation of U.N. Security Council Resolution (UNSCR) 2231. While German officials have stated that illegal procurement efforts by Iran halted before the deal’s implementation, news reports indicate that such illegal procurements continued even through this year.⁶ If these reports are true, would these

¹ <https://www.whitehouse.gov/the-press-office/2015/07/14/statement-president-iran>

² <https://www.verfassungsschutz.de/en/public-relations/publications/annual-reports/annual-report-2015-summary>

³ Ibid.

⁴ <http://www.mik.nrw.de/verfassungsschutz/aktuelles.html>

⁵ <http://www.jpost.com/Diaspora/Exclusive-Iran-sought-chemical-and-biological-weapons-technology-in-Germany-459905>

⁶ <http://www.wsj.com/articles/germany-says-iran-kept-trying-to-get-nuclear-equipment-after-deal-1468006075>

procurement actions not clearly violate the JCPOA and UNSCR 2231? Can you confirm and corroborate these domestic intelligence reports from the German government, and have these procurement activities indeed continued in Germany as the *Annual Report* predicted?

Further, under the JCPOA, the supplier of sensitive or dual-use materials must have its government submit a proposal for the sale of any nuclear-related items to the United Nations Procurement Working Group. According to the German intelligence report, Iran did not seek approval for the technology it sought to procure. We respectfully request that you ask your German counterparts why the German government did not report Iran's procurement requests or attempts to the working group.

According to reports published by the Institute for Science and International Security (the Institute), Iran had also sought to purchase "tons of controlled carbon fiber," a material which could be used in making advanced centrifuge machines.⁷ These reports charged that Iran was trying to use China and other third party countries to purchase nuclear-related equipment.⁸ According to the Institute's report, "This uptick in activity in China corresponds to a reduced emphasis on enforcement in the United States over alleged illegal Iranian procurement activities," and further charges that over the past two years, "the Obama administration has inhibited federal investigations and prosecutions of alleged Iranian illegal procurement efforts."⁹

Could you explain why such investigations and prosecutions of illegal Iranian procurement efforts have not taken place since the signing of the JCPOA, and why these violations have not resulted in severe and tangible punishments? If Iran is attempting to seek such materials outside of the Procurement Channel established by the JCPOA, why aren't Iran's attempts to violate the JCPOA and UNSCR 2231 treated as the transgressions that they are? We also encourage you to work with the JCPOA Joint Commission and U.N. Security Council to issue warnings to governments and suppliers and increase outreach to U.N. member states, alerting them to the possibility of Iran's efforts to illicitly procure missile and nuclear-related goods—activities banned under U.N. Security Council Resolution 2231.

The Administration has repeatedly pledged to snap back sanctions in the event of Iranian non-compliance. "With this deal, if Iran violates its commitments, there will be real consequences.... Nuclear-related sanctions that have helped to cripple the Iranian economy will snap back into place," said President Obama last July.¹⁰ Further, acting Under Secretary for Terrorism and Financial Intelligence Adam Szubin also said last September, "I want to clarify that if there are small violations, we have a host of calibrated penalty tools to respond. We retain full flexibility—from small measures to sectoral measures to full snap-back of the current sanctions—and we won't hesitate to use our tools if Iran cheats."¹¹ If the German allegations are true, we expect the Obama Administration to uphold its pledge to employ such "calibrated" tools

⁷ http://isis-online.org/uploads/isis-reports/documents/AEOI_Attempted_Carbon_Fiber_Procurement_7Jul2016.pdf

⁸ http://isis-online.org/uploads/isis-reports/documents/Previously_Sanctioned_Iranian_Entities_Doing_Business_in_China_7Jul2016_Final.pdf

⁹ http://isis-online.org/uploads/isis-reports/documents/Previously_Sanctioned_Iranian_Entities_Doing_Business_in_China_7Jul2016_Final.pdf

¹⁰ <https://www.whitehouse.gov/the-press-office/2015/07/15/press-conference-president>

¹¹ <http://www.washingtoninstitute.org/uploads/Documents/other/SzubinTranscript20150916-v2.pdf>

and deliver proportionate responses to these violations. What specific steps to do you intend to take to penalize Iran for its possible non-compliance?

For the past year, the Administration has repeatedly refused to state whether it would support the renewal of the Iran Sanctions Act (ISA). In light of the German reports, it is now more important than ever to demonstrate to Iran that the United States is prepared to punish Iran for any noncompliance. Will the Obama Administration support ISA renewal?

It seems clear to us that Iran's illicit procurement efforts violate UNSCR 2231 as well as the spirit, if not the letter, of the JCPOA. For the JCPOA to achieve its stated goal of preventing a nuclear-armed Iran, every report of a possible violation must be investigated with the utmost scrutiny. Given that the Administration repeatedly promised a continuous, rigorous verification scheme to hold Iran accountable under the deal, this seemingly lax enforcement of the JCPOA forces us to question: is the framework for addressing violations, as laid out in the JCPOA, working at all?

In response to these questions, we demand an investigation into all allegations of Iran's non-compliance with both the JCPOA and UNSCR 2231. We feel this is a reasonable request given that acceptance of the deal was predicated upon assurances of a robust verification regimen that includes such investigations.

We look forward to your prompt and direct reply to our inquiries.

Sincerely,